

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
**LAURA MESAGNO,**

Plaintiff,

-against-

**THE UNITED STATES OF AMERICA,**

Defendant.  
-----X

**Index No.:**

**Filing date:**

**VERIFIED  
COMPLAINT**

**PLAINTIFF**, by her attorneys, **BRAGOLI & ASSOCIATES, P.C.**, complains of the Defendants and alleges, upon information and belief, the following:

**JURISDICTIONAL ALLEGATIONS**

1. This cause of action arises as a result of a slip/trip and fall accident which occurred on Thursday, March 8, 2018, at approximately 6:30 a.m., on the sidewalk, in front of the United States Post Office, located at 35 South Main Street, in the Town of Pearl River, County of Rockland, and State of New York. Accordingly, the United States District Court and Southern District of New York is the proper judicial district pursuant to 28 U.S.C. §1402.

2. That at all times hereinafter mentioned, including March 8, 2018, the Plaintiff, **LAURA MESAGNO**, was, and continues to be, a resident of 49 Campbell Avenue, Tappan, New York 10983, in the County of Rockland.

3. Upon information and belief, and at all times relevant hereto, the Defendant, **THE UNITED STATES OF AMERICA**, was, and still is a Federal agency pursuant to 28 USCA §1346.

4. Upon information and belief, and at all times relevant hereto, the United States Postal Service, was formed under the Postal Reorganization Act as an independent establishment of the executive branch of the United State government.

5. Upon information and belief, and at all times relevant hereto, The United States Postal Service, was and may continue to be a municipal corporation, organized and existing under and by virtue of the federal laws of the Defendant, **THE UNITED STATES OF AMERICA**, and/or the laws of the State of New York.

6. Upon information and belief, and at all times relevant hereto, the United States Postal Service, was and may continue to be a governmental agency, organized and existing under and by virtue of the federal laws of the Defendant, **THE UNITED STATES OF AMERICA**, and/or the laws of the State of New York.

7. This action is brought pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671, et. seq., and 39 U.S.C. §409.

8. That the only proper defendant brought pursuant to Federal Tort Claims Act, 28 U.S.C. §2671, et. seq., and 39 U.S.C. §409, is the Defendant, **THE UNITED STATES OF AMERICA**.

9. That this claim was filed within two (2) years as prescribed by 28 U.S.C. §2401(b).

10. That the amount in controversy exceeds the sum of \$100,000.00.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**AGAINST THE DEFENDANT, THE UNITED STATES OF AMERICA**

11. Plaintiff, **LAURA MESAGNO**, repeats, reiterates and realleges each and every allegation contained in paragraphs “1” through “10” of the Complaint, as though the same were more fully set forth at length herein.

12. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, the owner of the premises located at 35 South Main Street, in the Town of Pearl River, County of Rockland, and State of New York.

13. That at all times herein mentioned, the Defendant, **THE UNITED STATES OF AMERICA**, was responsible for the sidewalk in front of/near/adjacent to 35 South Main Street, in the Town of Pearl River, County of Rockland, and State of New York (hereinafter referred to as the “subject sidewalk”).

14. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees maintained the subject sidewalk.

15. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees repaired the subject sidewalk.

16. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees managed the subject sidewalk.

17. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees inspected the subject sidewalk.

18. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees supervised the subject sidewalk.

19. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees controlled the subject sidewalk.

20. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees operated the subject sidewalk.

21. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and or employees had a duty to properly own, maintain, repair, manage, inspect, supervise, control and operate the subject sidewalk.

22. That at all times hereinafter mentioned, Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and or employees breached their duty to properly own, maintain,

repair, manage, inspect, supervise, control and operate the subject sidewalk.

23. That on or about March 8, 2018, Plaintiff, **LAURA MESAGNO**, was lawfully traversing the subject sidewalk, located in front of/near/adjacent to 35 South Main Street, in the Town of Pearl River, County of Rockland, and State of New York.

24. That on or about March 8, 2018, Plaintiff, **LAURA MESAGNO**, was lawfully traversing the subject sidewalk and was caused to slip/trip and fall as a result of a dangerous and hazardous condition.

25. The above-mentioned occurrence, and the results thereof, were caused by the negligence of the Defendants and/or said Defendants' agents, servants, employees and/or licensees in the ownership, operation, management, supervision, maintenance, control, inspection and repair of the subject sidewalk.

26. That Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees were reckless, careless and negligent in the ownership, operation, management, maintenance, supervision, inspection, repair and control of the subject sidewalk; by permitting a dangerous and hazardous condition to exist so that it was dangerous for persons, in particular, this Plaintiff, **LAURA MESAGNO**, by failing to keep the said sidewalk in a reasonably safe condition; in failing to plow and/or remove snow and ice from the subject sidewalk; in failing to remove the snow and ice; in failing to spread sand and/or salt in the area of the hazardous condition; by permitting said sidewalk to become dangerous for persons, and, in particular, to Plaintiff, **LAURA MESAGNO**; by causing and allowing said sidewalk to become and remain in a defective, hazardous and/or dangerous condition; in failing to take any measures, precautions and/or safeguards to keep the sidewalk in a reasonably safe condition; by failing to place barricades and/or exit signs with warnings for persons lawfully present on said sidewalk; in particular, Plaintiff, **LAURA**

**MESAGNO**; in allowing said sidewalk to remain in dangerous, hazardous and/or defective condition for an unreasonable period of time: in failing to keep the aforesaid sidewalk in a reasonably safe condition prior to, and including, March 8, 2018; in allowing, permitting and/or creating an unusual and dangerous condition making it unsafe on said sidewalk; in failing to warn the Plaintiff of the dangers inherent therein which were likely to cause injury to this Plaintiff; by creating and allowing to remain the dangerous and hazardous condition herein; and Defendant was otherwise careless, reckless and negligent with regard to the sidewalk where the accident occurred.

27. That as result of the foregoing, Plaintiff, **LAURA MESAGNO**, sustained certain severe personal injuries.

28. The aforesaid injuries sustained by Plaintiff, **LAURA MESAGNO**, were caused solely by reason of the negligence of the Defendants, and without any negligence or fault on the part of the Plaintiff contributing thereto.

29. That Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees had actual notice of the aforementioned dangerous and defective condition.

30. That Defendant, **THE UNITED STATES OF AMERICA**, its agents, servants and/or employees had constructive notice of the aforementioned dangerous and defective condition.

31. That as a result of the foregoing, Plaintiff, **LAURA MESAGNO**, sustained serious, severe and permanent injuries and was rendered sick, sore, lame, and disabled; Plaintiff, **LAURA MESAGNO**, was caused to suffer great physical pain, mental anguish, discomfort, and disability and will continue to suffer pain, anguish, discomfort, and disability in the future; Plaintiff, **LAURA MESAGNO**, was caused to undergo hospital and medical care, aid, and treatment, and may continue to undergo medical care, aid and treatment for a long period of time to come in the future; Plaintiff, **LAURA MESAGNO**, incurred large sums of expenses for medical care, aid, and attention; Plaintiff,

**LAURA MESAGNO**, was further caused to become incapacitated from and hindered in the progress of her usual pursuits, duties, and activities and may continue to be hindered in her pursuits, duties and activities for a long period of time to come in the future.

32. That as a result of the foregoing, Plaintiff, **LAURA MESAGNO**, has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**WHEREFORE**, Plaintiff, **LAURA MESAGNO**, demands judgment against Defendant, **THE UNITED STATES OF AMERICA**; together with the costs and disbursements of this action.

Dated: Melville, New York  
July 2, 2019

Yours, etc.,



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BY: **JOSEPH M. SORCE, ESQ.**  
**BRAGOLI & ASSOCIATES, P.C.**  
Attorneys for Plaintiff  
**LAURA MESAGNO**  
300 Broadhollow Road, Suite 100W  
Melville, New York 11747  
(631) 423-7755

## ATTORNEY'S VERIFICATION

The undersigned, an attorney duly admitted and licensed to practice in the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

I am the attorney for the Plaintiff in the within action; that the undersigned has read the foregoing **VERIFIED COMPLAINT** and knows the contents thereof; that the same is true to affirmant's own knowledge, except as to those matters alleged to be true upon information and belief, and as to those affirmant believe them to be true.

The undersigned further states that the reason this verification is made by the undersigned and not by Plaintiff is that the Plaintiff does not reside within the County where affirmant maintains an office. The grounds of affirmant's belief as to all matters not stated to be upon affirmant's knowledge, are documents, correspondences, and records maintained in affirmant's files and conversations had with the Plaintiff.

The undersigned affirms that the foregoing statements are true, under the penalty of perjury.

Dated: Melville, New York  
July 2, 2019



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JOSEPH M. SORCE, ESQ.

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**VERIFIED COMPLAINT**

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*BRAGOLI & ASSOCIATES, P.C.*  
*Attorneys for the Plaintiff*  
*300 Broadhollow Road, Suite 100W*  
*Melville, New York 11747*  
*(631) 423-7755*

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To:>

Attorney(s) for>

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Service of a copy of the within

is hereby admitted.

Dated,

\_\_\_\_\_  
Attorney(s) for

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Sir: - Please take notice

that the within is a true copy of a  
court on

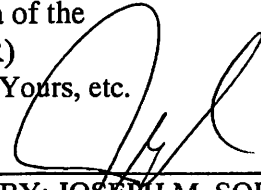
duly entered in the office of the clerk of the within named

, 2019

Dated:

Attorney signature pursuant to Sec. 130-1.1-a of the  
Rules of the Chief Administrator (22NYCRR)

Yours, etc.

  
\_\_\_\_\_  
BY: JOSEPH M. SORCE, ESQ.  
*BRAGOLI & ASSOCIATES, P.C.*  
*Attorneys for the Plaintiff*  
*300 Broadhollow Road, Suite 100W*  
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